

Secretary

EX PARTE OR LATE FILED

MINORITY MEDIA **ORIGINAL**  
TELECOMMUNICATIONS COUNCIL

3636 16th Street N.W., Suite B-366  
Washington, D.C. 20010  
Phone: (202) 332-0500 Fax: (202) 332-0503  
www.mmtconline.org

David Honig, Executive Director  
Phone: (202) 332-7005 Fax: (202) 332-7511  
e-mail: dhonig@mmtconline.org

Henry M. Rivera  
Chairperson

Erwin Krasnow  
Deborah Lathen  
Vice Chairpersons

Lawrence Roberts  
Secretary

Everett C. Parker  
Treasurer

BOARD OF DIRECTORS

Andrew C. Barrett  
Antoinette Cook Bush  
Jeneba Jalloh Ghatt  
Julia Johnson  
Erwin Krasnow  
Deborah Lathen  
Nicolaine Lazarre  
Alex Nogales  
Everett C. Parker  
Henry M. Rivera  
Lawrence Roberts  
Andrew Schwartzman  
S. Jenell Trigg  
Herbert Wilkins

BOARD OF ADVISORS

Raul Alarcon, Jr.  
Eddie Arnold  
Tyrone Brown  
Amador Bustos  
Angela Campbell  
Thomas Castro  
Jannette Dates  
Belva Davis  
Moctesuma Esparza  
Jerome Fowlkes  
Frank Halfacre  
John Hane  
Janis Hazel  
Ragan A. Henry  
Leo Hindery  
Reginald Hollinger  
Larry Irving  
Eli Noam  
Vincent A. Pepper  
Benjamin Perez  
Linda Eckard Vilaro  
Anthony Williams  
Edward Young

Hon. Michael Powell  
Hon. Kathleen Abernathy  
Hon. Jonathan Adelstein  
Hon. Michael Copps  
Hon. Kevin Martin  
Federal Communications Commission  
445 12th Street S.W.  
Washington, D.C. 20554

May 29, 2003

**RECEIVED**

**MAY 29 2003**

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Dear Colleagues:

RE: Broadcast Ownership Omnibus Proceeding  
MB Docket 02-277 -- Ten Radio Stations  
Per Market Proposal

Yesterday it was reported that the Commission is considering raising the eight-station radio ownership cap to ten in the three largest markets. If the Commission wishes to consider this approach, it should do so in a further NPRM rather than resolving it Monday.

The record on this subject is extremely sparse, since the Omnibus NPRM and subsequent public discussion by Commission officials did little to signal that the agency was considering an increase in the local radio cap. Almost no one filed comments on this subject.

Nonetheless, the "ten" idea could have the unintended effect of foreclosing, possibly for all time, the development of minority owned radio companies reaching the national market.

Four essential facts confront minority broadcasters today:

1. They must grow through synergies -- local or national -- in order to attract capital that will otherwise flow to other companies possessing these synergies. Thus, they must either grow clusters or hub-and-spoke networks.

No. of Copies rec'd 0411  
List ABCDE

Hon. Michael Powell  
Hon. Kathleen Abernathy  
Hon. Jonathan Adelstein  
Hon. Michael Copps  
Hon. Kevin Martin  
May 29, 2003  
Page Two.

2. They can almost never develop synergies through clusters. Assembling clusters one station at a time is very difficult even for the largest operators, since few suitable facilities are for sale and they command premium prices. Furthermore, in 1996, few minority broadcasters possessed sufficiently large holdings of local stations or other assets that could be leveraged to build clusters. That is why, today, not one minority owned broadcaster operates eight stations in any market except Puerto Rico.

3. Given the unavailability of cluster-building as a growth strategy, and venture capital firms' insistence on some synergy-based strategy, minority owned broadcasters can only achieve national scale by using a network-based, hub-and-spoke strategy under which niche formats can be replicated across several markets. Multicultural Broadcasting, Mega, Radio Unica, SBS, and to some extent Radio One present examples of this strategy.

4. For this hub-and-spoke strategy to work, the entrepreneur must be able to acquire full market coverage stations in the top three markets -- no marginal move-ins, no daytimers, no Class A FMs. These top three market facilities are the "Linchpin Stations" for networking. Presently, only about 20-25 Linchpin Stations are not owned by cluster operators.

The risk of the "ten" idea is that if just four broadcasters with eight stations each in the top three markets each go to ten stations each, they could exhaust the entire supply of Linchpin Stations. That would foreclose the possibility that minority owned radio companies could ever grow beyond their current size and geographic boundaries.

Nonetheless, there may be a number of ways a large market "ten" rule could be designed to promote diversity. Here are three examples:

1. Share-Times. The Commission is already authorized to allow the eight station cap to be exceeded when new stations are created through genuine share-time operations. See Section 202(b)(2) of the Telecommunications Act. This paradigm is developed in the MMTC Comments in MM Docket No. 01-317 (Local Radio Ownership), March 19, 2002, pp. 111-173.

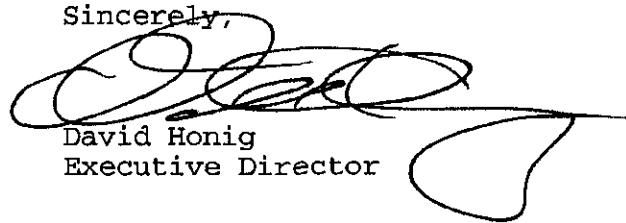
Hon. Michael Powell  
Hon. Kathleen Abernathy  
Hon. Jonathan Adelstein  
Hon. Michael Copps  
Hon. Kevin Martin  
May 29, 2003  
Page Three.

2. Joint Ownership. The Commission could also allow for joint ventures under which an eight-station cluster owner could take an EDP-attributable noncontrolling interest in two stations controlled by a socially and economically disadvantaged business (SDB). This approach tracks the Mickey Leland Rule, which provided a "bump up" from the 12-12-12 national caps to 14-14-14 where the interests in two additional stations per service were held in minority-controlled stations. See Multiple Ownership of AM, FM and Television Broadcast Stations (MO&O on reconsideration), 100 FCC2d 74, 94 (1985).

3. Waivers Where Transaction Advances Diversity. The Commission could state that it would look favorably on transactions that increase the number of Linchpin Stations. For example, suppose an eight-station owner in New York City buys a four-station owner, spins two stations to new entrants planning hub-and-spoke strategies, and seeks to retain the other ten. A good argument could be made that the net effect of this transaction would contribute to diversity.

The one day remaining for public comment is not sufficient to allow a full exploration of these and other public interest options. Consequently, if the Commission wishes to consider a "ten" rule for the top three markets, it should do so in a further NPRM, as well as directing its incipient advisory committee on diversity to examine the question.

Sincerely,



David Honig  
Executive Director

cc: Jane Mago, Esq.  
Michele Ellison, Esq.  
Paul Gallant, Esq.

/dh